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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/486,037 | 02/18/2000 | SYLVAIN ORENGA | 105454 | 7665 |

25944 7590 03/24/2004

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EXAMINER

NAVARRO, ALBERT MARK

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1645

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/486,037

Applicant(s)

ORENGA, SYLVAIN

Examiner

Mark Navarro

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6,7,10-12,20-28 and 31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-28 is/are allowed.
- 6) ☒ Claim(s) 1,6,7,11 and 12 is/are rejected.
- 7) ☒ Claim(s) 10 and 31 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Additionally Applicants amendment filed November 26, 2003 has been entered.

All grounds of rejection in the prior Office Action mailed December 29, 2003 are withdrawn in view of Applicant's amendments.

The following new grounds of rejection are applied to the claims:

Claim Rejections - 35 USC § 112

1. Claims 11-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 11-12 are vague and indefinite in view of their dependency upon a cancelled claim. Accordingly, claims 11-12 have not been further considered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, and 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Mega et al.

The claims are directed to culture medium for the specific identification and/or differentiation of *Candida albicans* and *Candida tropicalis* yeast, comprising a chromogenic or fluorogenic substrate that can be hydrolyzed by an enzyme of the hexosaminidase family and an acetamide that selectively inhibits the hexosaminidase activity of *C. tropicalis*.

Mega et al (J. Biochem. Vol. 71, pp 107-114, 1972) disclose of a composition comprising N-acetyl- β -glucosaminidase and acetamide. Mega et al further disclose of the composition comprising N-acetylglucosamine. (See abstract and Table IV).

In view that Mega et al disclose of a composition comprising a chromogenic or fluorogenic substrate (N-acetyl- β -glucosaminidase) that can be hydrolyzed by an enzyme of the hexosaminidase family and an acetamide that selectively inhibits the hexosaminidase activity of *C. tropicalis*, the disclosure of Mega et al is deemed to anticipate the claimed invention.

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It is noted that Mega et al do not disclose of culturing Candidia with the composition, however this is merely an intended use of the claimed composition, and therefore does not carry any patentable weight when compared to the identical composition as disclosed by Mega et al.

Claims 20-28 are allowed.


Claims 10 and 31 are objected to for depending upon a rejected base claim, however claims 10 and 31 are free of the prior art of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Navarro whose telephone number is (571) 272-0861. The examiner can normally be reached on 5/4/9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on (571) 272-0864. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Navarro
Primary Examiner
March 19, 2004